

COPY

WILL S. SKINNER (SBN 206031)
 DEFOREST KOSCELNIK YOKITIS KAPLAN &
 BERARDINELLI
 Wells Fargo Bank Building
 15760 Ventura Blvd., 7th Floor
 Encino, CA 91436
 Telephone: (818) 325-3841
 Facsimile: (818) 325-3842
 Email: skinner@dkykb.com

Attorneys for Defendant
 TELEDYNE CONTINENTAL MOTORS, INC.

2008 DEC 22 PM 12:07
 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

FILED

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

KAPA INVESTMENTS, a
 California corporation,

Plaintiff,

v.

CIRRUS DESIGN
 CORPORATION; TELEDYNE
 CONTINENTAL MOTORS;
 GARMIN INTERNATIONAL; L-3
 COMMUNICATIONS AVIONICS;
 STEC, INC.; and DOES 1 through
 20, inclusive,

Defendants.

CV08-8446 PSG (JCx)
 Case No.:

TELEDYNE CONTINENTAL
 MOTORS, INC.'S NOTICE OF
 REMOVAL OF CIVIL ACTION TO
 UNITED STATES DISTRICT
 COURT

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
 THE CENTRAL DISTRICT OF CALIFORNIA:

Defendant Teledyne Continental Motors, Inc. ("TCM"), by and through its
 attorneys of record, DeForest Koscelnik Yokitis Kaplan & Berardinelli, hereby
 removes this pending action from the Superior Court of the State of California for
 the County of Los Angeles to the United States District Court for the Central
 District of California on the following grounds:

1 1. On November 25, 2008, there was filed in the Superior Court of the
2 State of California for the County of Los Angeles, the attached summons and
3 complaint bearing Case No. BC402666 in the records and files of that court. True
4 and correct copies of the summons and complaint and all other documents filed in
5 the state court are attached hereto as Exhibit A.

6 2. TCM first received a copy of the summons and complaint on
7 December 3, 2008. Accordingly, TCM's Notice of Removal was filed within thirty
8 days of receiving the summons and complaint and is timely pursuant to 28 U.S.C. §
9 1446(b).

10 3. According to the allegations contained in Plaintiff's complaint,
11 Plaintiff is claiming damages allegedly arising from the purchase of a 2005 Cirrus
12 Design SR22-GTS airplane. *See* Exhibit A [Complaint], ¶¶ 6-11. Plaintiff alleges
13 that since the purchase of the airplane, Plaintiff experienced severe, continuing and
14 recurring defects and nonconformities in the airplane, including excess oil
15 consumption, engine "blow by", failure of the GPS display, failure of the autopilot
16 system, failure of the traffic alert system, defects in the anchoring of the pilot's
17 seat, failures of the interior door panels, unpredictable power supply percentages,
18 engine overheating, and other defects and malfunctions. *Id.* at ¶ 10. Plaintiff
19 alleges that as a result of the nonconformities, Plaintiff was required to present the
20 airplane to defendants' authorized repair facilities for repair on more than four
21 occasions. *Id.* at ¶ 11.

22 4. This action is a civil action over which this Court has original
23 jurisdiction based upon the existence of a federal question pursuant to 28 U.S.C. §
24 1331, and is one which may be removed to this Court by TCM pursuant to the
25 provisions of 28 U.S.C. § 1441(b). Specifically, Plaintiff alleges that its claims are
26 governed by 15 U.S.C. § 2301, *et seq.*, the Magnuson-Moss Warranty Act. *Id.* at ¶
27 9.

5. Plaintiff claims damages in excess of \$658,000. *Id.* at ¶ 16. Specifically, Plaintiff seeks damages as follows: \$357,400 (purchase price of airplane); \$241,000 (interest to finance the airplane); \$50,000 (additional damages for loss time, earnings, garaging, storing, etc.); and \$10,000 (attorneys' fees pursuant to 15 U.S.C. § 2301(d)(2)). *Id.* at ¶¶ 16-17. Accordingly, the matter in controversy exceeds \$50,000 exclusive of interest and costs as required by 15 U.S.C. § 2310(d)(3)(B).

6. TCM is informed and believes that all defendants properly served at this time will join in the notice of removal. The defendants identified as "Does 1 through 20" in Plaintiff's complaint are merely fictitious parties against whom no cause of action can be validly alleged. To the best of TCM's knowledge, information and belief, no fictitiously designated defendant has been served with process.

WHEREFORE, TCM prays that the above-entitled action now pending in the Superior Court of the State of California for the County of Los Angeles, be removed to this Court.

Dated: December 19, 2008

DEFOREST KOSCELNIK YOKITIS
KAPLAN & BERARDINELLI

By: 

Will S. Skinner

Attorneys for Defendant
TELEDYNE CONTINENTAL
MOTORS, INC.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Philip S. Gutierrez and the assigned discovery Magistrate Judge is Jacqueline Chooljian.

The case number on all documents filed with the Court should read as follows:

2:CV08- 8446 PSG (JCx)

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) KAPA INVESTMENTS		DEFENDANTS CIRRUS DESIGN CORPORATION; TELEDYNE CONTINENTAL MOTOR GARMIN INTERNATIONAL; L-3 COMMUNICATIONS AVIONICS, INC.													
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Alan R. Golden, Esq. 1783 Duane Street, Suite 100 San Francisco, California 94117 Telephone: (818) 784-1224 Facsimile: (818) 936-3011		Attorneys (If Known) WILL S. SKINNER (DEFENDANT) TELEDYNE CONTINENTAL MOTOR DEFENSE ATTORNEYS: VICTORIS KAPLAN & BERARDINO LLP 15760 Ventura Blvd., 7th Floor, Encino, CA 91436 Telephone: (818) 325-3841													
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <td style="width:30%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:50%;">Incorporated or Principal Place of Business in this State</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> </tr> </table>		Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State												
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State												
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation												
IV. ORIGIN (Place an X in one box only.) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate															
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$5658,000															
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28 U.S.C. § 1331; Plaintiff alleges that its claims are governed by 15 U.S.C. § 2301, et seq., the Magnuson-Moss Warranty Act.															
VII. NATURE OF SUIT (Place an X in one box only.)															
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	REAL PROPERTY <input type="checkbox"/> 120 Insurance <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORT PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISON DEFITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc Security Act PROFESSIONAL <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1304B) <input type="checkbox"/> 862 Black Lung (9 <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XV <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Pl or Defendant) <input type="checkbox"/> 871 IRS-Third Part (USC 750)										

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or

☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
KAPA INVESTMENTS - LOS ANGELES COUNTY	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	TELEDYNE CONTINENTAL MOTORS, INC. - ALABAMA GARMIN INTERNATIONAL, L-3 COMMUNICATIONS AVIONICS, STE INC. - UNKNOWN

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date

12/19/08

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not fill but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Statistical Code and Name of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1955 (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (e))